

What is an HOA?

The homeowners' association (HOA) is an organization to which all of the owners of lots or units in a planned community belong. The HOA is created by a declaration recorded in the public records of the appropriate governmental unit. The HOA's purpose is to own, manage, maintain or improve the property within the planned community that does not belong to the individual homeowners. You are automatically a member of the HOA when you purchase a home, lot or unit in the planned community. You cannot "opt out" of the HOA and must pay the dues and assessments the HOA requires. The HOA has three critical documents: (a) the "Articles of Incorporation" for the HOA, which establishes the HOA as a legal entity; (b) the "Bylaws," which are the governing documents of the HOA and set out the procedures for electing a Board of Directors and other internal operations of the HOA; and (c) the "Declaration of Covenants, Conditions and Restrictions" (the CC&Rs), the enabling document which is recorded with the county recorder and empowers the HOA to control many aspects of how the property in the HOA is used and developed. When you buy a home in an HOA, you are agreeing to conform to the CC&Rs (whether you know it or not), and the HOA can enforce the terms of the CC&Rs in the same way as any other contractual agreement is enforced.

HOA Governance

HOAs are governed by Boards composed of officers, usually a President, Secretary, Treasurer, and Chair of the Architectural Committee. Other common designees include the HOA Representative to the Green Valley Council and Chairs of HOA Committees, such as chairs of social committees, communications, common area oversight, etc.

Board operations in Green Valley are governed by the state statutes regulating community associations. Since many HOAs are nonprofit corporations, they are also covered under Arizona's Nonprofit Corporation Act (§ 10-1301).

CC&R's

The HOA "Covenants, Conditions & Restrictions" enable neighbors to live together in harmony. It is a legal contract that binds the homeowners to the association and the association to each of the homeowners. To a large extent, the CC&Rs identify units and common

areas, define maintenance obligations of owners and the association and otherwise stipulate how the land can and cannot be used

The CC&Rs (Covenants, Conditions, and Restrictions) are the governing documents that dictate how the homeowners' associations operates and what rules the owners – and their tenants and guests – must obey. These documents and rules are legally enforceable by the homeowners' associations, unless a specific provision conflicts with federal, state, or local laws.

CC&Rs vary within Homeowner Associations, so please review carefully the CC&Rs of the HOA you are interested in and ask yourself the following questions.

1. Suppose I do not like the rules. Can they be changed? Most rules are easy to accept, but some may strike a nerve. Such issues as pets, parking spaces, recreational facilities and subleasing can prove quite controversial. The procedure for changing the rules should be explained in the governing documents. A majority vote or, in some cases, a super majority, will be required. Changing existing rules is rarely easy.

2. What are the consequences of breaking a rule? Penalties might include fines, forced compliance, a lawsuit by the association, the misery of being at odds with your neighbors and emotional distress. Read the rules thoroughly before you buy an association governed home.

3. What is the intent of CC&Rs? The intent of the CC&Rs is to preserve property values, both yours and those of your neighbors, and to protect the quality of life that you and your neighbors enjoy.

The Rules and Regulations

Rules and regulations provide a detailed explanation of what is and isn't permitted in a community. These provisions are typically adopted by the association board, whose members are elected by their neighbors to govern in the best interests of the community as a whole. They can provide much needed clarification for items appearing in other documents, such as the CC&Rs, and can be updated in a more timely fashion.